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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BAREFORD, KATHERINE A

ART UNIT PAPER NUMBER

1762

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,652

Applicant(s)

CINTRA ET AL.

Examiner

Katherine A. Bareford

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-18, 21, 51 and 52 is/are allowed.
- 6) ☒ Claim(s) 53-56, 59, 61, 62 and 64 is/are rejected.
- 7) ☒ Claim(s) 60 and 63 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.
Claims 1-15, 19-20, 22-30, 57-58, and 65 are canceled

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment of Jan. 19, 2006 has been received and entered.

With the entry of the amendment, claims 1-15, 19-20, 22-50, 57-58 and 65 are canceled. Claims 16-18, 21, 51-56 and 59-64 are pending for examination.

Claim Objections

2. Claim 59^{and 63} is objected to because of the following informalities: (1) at line 2, "a surface" should be "the surface" as the surface is already defined in parent claim 16. (2) claim 63, line 2, "a battery container" should be "the battery container" as the battery container was already provided in parent claim 16.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 53-56, 59, 61-62 and 64 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for (see A below), does not reasonably provide enablement for (see B below). The specification does not enable any person

skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

(A) applying the film forming material with the electrolyte when applying to a cathode (pages 8-9 of the specification), applying the material to a cathode that is non-cylindrical and an undulating lobe (page 9 of the specification) and applying the material while rotating the container when applying to a non-cylindrical surface (page 9 of the specification).

(B) After the amendment to claim 16 of Jan. 19, 2006, to require that the claims comprise applying the electrolyte to a surface "defined by a separator including a cellulose material", the specification is not enabled for claims 53-56 where a film forming material is applied with the electrolyte, because as described in the specification the film forming material would be a material acting as a separator (see pages 8-9), and there is no indication or suggestion of applying a film forming material with the electrolyte when a separator is already present. Similarly as to claims 59, 61-62, there is no indication or suggestion that the separator surface including cellulose to which the electrolyte is applied is anything but cylindrical. All teaching in the specification to a non-cylindrical surface is to a cathode (see page 9). As to claim 64, there is no teaching or suggestion to rotate the container of the battery when applying the electrolyte, as the only suggestion is to do so when coating the non-cylindrical surface (see page 9). One of ordinary skill in the art would have to perform undue

experimentation to determine when and if the invention would work using the separator as claimed.

Claim Rejections - 35 USC § 103

5. The rejection of claims 16, 21, 52, 53, 55- 57 and 59-64 under 35 U.S.C. 103(a) as being unpatentable over Japan 55-088266 (hereinafter '266) in view of Reichert et al (US 6203941) and Sono-Tek Technology Overview is withdrawn due to applicant's amendments and arguments of January 19, 2006.

6. The rejection of claims 19 and 65 under 35 U.S.C. 103(a) as being unpatentable over '266 in view of Reichert and Sono-Tek as applied to claims 16, 21, 52, 53, 55-57 and 59-64 above, and further in view of the admitted state of the prior art is withdrawn due to applicant's amendments and arguments of January 19, 2006..

7. The rejection of claims 17-18 and 51 under 35 U.S.C. 103(a) as being unpatentable over '266 in view of Reichert and Sono-Tek as applied to claims 16, 21, 52, 53, 55-57 and 59-64 above, and further in view of Hope et al (US 4888206) is withdrawn due to applicant's amendments and arguments of January 19, 2006..

8. The rejection of claim 54 under 35 U.S.C. 103(a) as being unpatentable over '266 in view of Reichert, Sono-Tek and the admitted state of the prior art as applied to claims

19 and 65 above, and further in view of EP 898 316 A1 (hereinafter '316) is withdrawn due to applicant's amendments and arguments of January 19, 2006..

Allowable Subject Matter

9. Claim 16-18, 21 and 51-52 allowed.
10. Claim 60 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
11. Claim 63 would be allowable if rewritten to overcome the objection to claim 63, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The cited prior art does not teach or suggest the providing a of a separator including a cellulose material in a battery container and spraying an electrolyte using a vibratory nebulizer so as to apply electrolyte to the separator in the battery container.

Response to Arguments

12. Applicant's arguments with respect to claims 53-56, 59, 61-62 and 64 have been considered but are moot in view of the new ground(s) of rejection.

The claims have been rejected under 35 USC 112, first paragraph due to the amendments to the claims.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine A. Bareford whose telephone number is (571) 272-1413. The examiner can normally be reached on M-F(6:00-3:30) with the First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and for After Final communications.

Other inquiries can be directed to the Tech Center 1700 telephone number at (571) 272-1700.

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Furthermore, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


KATHERINE BAREFORD
PRIMARY EXAMINER